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MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 1, 2021/2022

FUCS 2612 – CONSUMER LAW

(All Sections / Groups)

30 NOVEMBER 2021

Reading Time: 9:15 a.m - 9:30 a.m
(15 Minutes)

Answering Time: 9:30 a.m – 12:30 p.m
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.
2. This question paper consists of 4 pages, with 4 questions only.
3. Attempt **ONE** out of **TWO** questions in Part A and answer **ALL** questions in Part B. All questions carry equal marks and the distribution of the marks for each question is given.
4. Students are not allowed to bring in any statutes into the Examination Hall.
5. Please write all your answers in the Answer Booklet provided.

PART A: Answer question 1(a) OR question 1(b)**QUESTION 1(a)**

Paragraph 28 of the United Nations Guidelines for Consumer Protection dictates the government to establish relevant organisations for consumers to obtain redress through informal or formal procedures, that are fair, accessible, expeditious and inexpensive.

With reference to the above statement, answer the following:

(a) Identify at least three agencies presently available for consumers protection in Malaysia. In your answer, please explain their functions, powers and backgrounds.

(15 marks)

(b) Explain the scope of protection provided under the Consumer Protection Act 1999.

(10 marks)

(Total: 25 marks)

QUESTION 1(b)

“Product liability law is associated with consumers’ right to damages. Under the product liability law, the consumers can sue the producers or manufacturers for the damage that has been caused by a defect in a product. Product liability law is necessary in order to provide protection to consumers.”

- Rahmah Ismail, Zeti Zuryani Mohd Zakuan, Sakina Shaik Ahmad Yusoff, Ruzian Markom, Suzanna Mohamed Isa and Azimon Abdul Aziz, 2015. Product Liability Law under the Malaysian Consumer Protection Act 1999: Justice for Consumers?. *International Business Management*, 9: 1290-1296.

Based on the statement above, explain the types of defects under Product Liability in the Consumer Protection Act 1999 and discuss the defences available to the seller as mentioned in the said Act against the said liability.

(Total: 25 marks)

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PART B: Answer All Questions**QUESTION 2**

Brad, a professional track athlete saw an advertisement in a leading Sports Magazine, Gold Medal Mag for a wearable air purifier which integrated advanced air filters and electronic fans into a face mask. The High-Tech face mask, or called Maskcanggih 2.0 is at an introductory price of RM 4,000 instead of the normal price of RM 6,000. According to the advertisement, Maskcanggih 2.0 is suitable and designed for the usage of professional athletes. Since Brad is currently in preparation to enter the Olympics, he thinks it is a good time to purchase Maskcanggih 2.0, as he needs to train outside of his home, even during the pandemic. In addition to that, since the price is RM 4,000 instead of RM 6,000 therefore he thinks it will be a bargain. Apart from that, the advertisement also promised a free gift in form of running glasses that worth RM 300. Captivated by the advertisement, Brad rushed to the store as stated in the advertisement. After a long queue, he was attended by the salesperson who discouraged him from purchasing the advertised Maskcanggih 2.0 stating that it is using a defective and obsolete technology therefore it could be easily broken. He was alternatively shown another model namely; Maskkoyak 1.0, as according to the salespersons equipped with the latest technology along with other extra up-to-date features. Apart from that, the salesperson also told Brad that Maskkoyak 1.0 was made in Germany and recommended by a number of professional athletes all around the globe. Unimpressed with the offer, Zack insisted that he wanted the face mask that was advertised in the magazine along with the free running glasses. Unfortunately, the sales person told him that there was no more stock of the sunglasses available due to the unexpectedly extensive demand.

Reluctantly, he bought the proposed face mask, Maskkoyak 1.0. The next following that, he found out that the production of Maskkoyak 1.0 had been terminated due to various safety reasons. There are even reported cases that the face mask easily got heated and explode even after just two hours of usage. Worse, he had been told by his coach that this particular model was made in Tanzania and shipped back to Germany where all final touches were done. Apart from that, he was informed by his athletes' colleagues that the model was not the latest, and in fact it is not even recommended to be used for sporting activities.

In response to that, Brad demanded to return Maskkoyak 1.0 and request his money to be refunded. Nevertheless, the sales person told him that the store has a policy that goods sold are not refundable. Additionally, he argued that there was no technical defect with regard to the face mask. As for the place of origin, he argued that it was a German product as they had imported it from Germany.

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Brad seeks your advice and the course of action that he can take against the seller of the product. With reference to the Consumer Protection Act (CPA) 1999, highlight to him the various issues arising from the transaction.

(Total: 25 marks)

QUESTION 3

Recently, Karim was tested positive for Covid-19. About a day after he finished his mandatory self-quarantine at home, Karim contacted a sanitation company, called SentalBersih Sdn Bhd that provides disinfection service for premises with a confirmed or suspected case of Covid-19. After a brief negotiation, SentalBersih agrees to provide their service to Mr Karim with a fee of RM3000 with RM1000 to be paid upfront as a deposit. Despite the price is generally expensive, however, Karim agrees to it since SentalBersih is known for its specialty in providing disinfection and sanitation services.

The next day, 3 employees from SentalBersih arrived in Karim's house with full gear to begin the sanitation process. Ali, one of the SentalBersih representatives initially told Karim that the procedure may take up to three hours to complete. Nevertheless, it turns up to be longer than initially expected and Karim has told to spend a night in a hotel due to that. On the next morning, Karim came back to his home with a high expectation that everything is sanitized and in order. However, to his shock, the house was left untidy and bottles of chemicals that were being used were left scattered all over the living room. In addition to that, he also found out that his expensive antique vase was broken, and his sofa was as well severely damaged. After checking the footage from his home security camera, he also noticed that SentalBersih did not sanitize the entire house as promised but only his kitchen and living room.

In anguish, he, later on, phoned and asked Ali for compensation, but Ali had denied the liability of his company against the damage, and instead plead that the goods were already damaged before the disinfection process was even taken place. In addition to that, Ali also asked Karim to pay RM10000 for the company's service, for the reason that the disinfection process took longer than what was initially expected.

Advise Karim in the light of implied guarantees in the respect of supply of services.

(Total: 25 marks)

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QUESTION 4

“Section 23(1) of the Consumer Protection Act 1999 empowers the Ministry to declare unsafe goods as prohibited goods. The power of the Ministry to prescribe safety standards for products or goods will be able to overcome many unsafe consumer goods in the market.”

- Ismail, Rahmah, et al. "Consumer right to safe product: the application of strict criminal liability in product safety legislations in Malaysia." *Journal of Social Sciences & Humanities* (2012).

(a) Based on the statement above, explain the actions that can be taken by the Controller of Consumer Affairs against unsafe goods;

(10 marks)

(b) Explain the Penalties available against the offender who intentionally ignored the order made by the Minister, as well as defences available to a defendant against such order.

(15 marks)

(Total: 25 marks)

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